

Michael Pasken

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA

MDL NO.: 1968

IN RE: DIGITEK  
PRODUCT LIABILITY LITIGATION

THIS DOCUMENT RELATES ONLY TO:

Michael Pasken, et al.,

Plaintiffs,

V.

Actavis Group hf, et al.,

Defendants.

MDL: 2:08-1075

Shook, Hardy & Bacon, LLP  
100 North Tampa Street  
Suite 2900  
Tampa, FL 33602  
9:28 a.m. to 12:58 p.m.

July 29, 2009

CONFIDENTIAL DEPOSITION OF MICHAEL PASKEN

Taken on behalf of the Defendants before  
Rhonda Hall-Breuwet, RMR, CRR, Notary Public in and  
for the State of Florida at Large, pursuant to  
Defendants' Notice of Taking Deposition in the above  
cause.

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## 1 I N D E X

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20 Q. Well, let's start with the main problems that  
21 prompted you to call the lawyer.

22 A. The main problems are, I would be sitting on  
23 the couch, and my heart would start taking off real  
24 fast, and then it would go real slow. And I've never  
25 had that happen before. I've had it go fast, the

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1 atrial fib, which was kind of common with me if I  
2 overdid myself, and so that wasn't unusual. But it  
3 would be just like for 10 or 15 seconds, and then it  
4 would slow down.

5 But the major problem I had was constipation.  
6 And it really messed me up, and I was uncomfortable  
7 all the time. Maybe a little shortness of breath,  
8 which I had from time to time, nausea. I would get  
9 the atrial fib. I don't know if it was more frequent  
10 than I had in the past.

11 But like I told you, the two main things were  
12 the irregular heartbeat, which was very, very  
13 noticeable, and -- it didn't pain me or anything; it  
14 just was very, very noticeable. And the constipation  
15 was the biggest problem.

16 Q. Had you experienced problems with  
17 constipation in the past?

18 A. I've -- I've had irritable bowel syndrome for  
19 months -- I mean for years. And my doctor 15 years  
20 ago probably put me on Citrucel. And when I got on  
21 Citrucel, that alleviated my problems.

22 The only time that I've really had a problem  
23 with constipation since then is when they put me in  
24 the hospital for heart -- for heart surgery, extensive  
25 heart surgery, and they didn't let me take my -- my

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1 stuff in with me, my Citrucel. And I really had a  
2 problem in the hospital, and I suffered in there from  
3 constipation because I needed my Citrucel.

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11 Q. You indicated that you also had fast heart  
12 rate and slow heart rate, in addition to the  
13 constipation as your main problem?

14 A. Right.

15 Q. Correct?

16 A. Yes, sir.

17 Q. When did you first start experiencing those  
18 symptoms that you relate to your Digitek use?

19 A. The only reason I would probably know the  
20 answer to this is because I -- I'm sort of getting  
21 around the question. You just want an answer to your  
22 question, but I can give you a little background.

23 Q. That would be fine.

24 A. I -- my wife and I signed up for a trip to --  
25 to Alaska, and I started having problems before we

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1 made the payment to -- and I didn't tell her that I  
2 was having problems because I thought it was a  
3 deterioration in my health.

4 And I noticed a problem there, and that's why  
5 I did certain things, which will come up later, when I  
6 signed up for that. But I was having problems, and  
7 that was, like, February the 12th.

8 Q. When you say that was February the 12th,  
9 February 12th of 2008, would that be?

10 A. February 12th -- right. I -- I retired in  
11 2007. That was February 12th in 2008.

12 Q. Okay. And what problems did you notice?  
13 Were those the ones that we talked about earlier, the  
14 fast and slow heart rate and the constipation?

15 A. Yeah. The constipation was the biggest thing  
16 and just feeling -- just not feeling good, you know,  
17 little dizziness and, you know, just overall heart  
18 problems. You know, very uncomfortable.

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4           And I had one other problem. I went fishing  
5 down at Sanibel, and I was so uncomfortable that I got  
6 up at 2:00 in the morning and I drove to Fort Myers to  
7 get a Fleet enema. And I drove, you know -- it's -- I  
8 know it's not a lot of money, but I had to go through  
9 the \$6 toll coming back, and it -- it's about 20  
10 miles. It's about 20 miles from where I went to  
11 where -- and -- but -- and I never had problems like  
12 that.

13           Q. I'm sorry. I don't recall; how much did you  
14 pay for insurance for trip cancellation?

15           A. \$462. And I signed up for that on the 12th  
16 of February.

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14           And -- I'm sorry. I broke -- I broke them in  
15   half until -- and took a half a pill until I got the  
16   overnight mail from CVS, and they said they were going  
17   to send them right out. So I probably -- for five  
18   days or six days, or something like that, I took a  
19   half a pill. Sometimes I don't -- I do what I want to  
20   do instead of what they tell me to do.

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18 Q. And is your lawsuit that you've brought now,  
19 is it, in your view, relating at all to those possible  
20 prior Digitek purchases or only the ones that you had  
21 following November 2007?

22 A. It's just the ones that I'm sure that I took.

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15 Q. With respect to the financial damages that  
16 you're seeking in your case, for, in your instance,  
17 loss of insurance money that was paid to secure a  
18 vacation and for the cost of the two enemas you  
19 purchased, do you agree that the other people in your  
20 class probably don't have precisely those exact  
21 damages?

22 A. Right.

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1 sign?

2 MS. AVERY: We are not waiving reading and  
3 signing.

4 (THEREUPON, the right to read and sign the  
5 deposition and/or the right to waive reading and  
6 signing were explained to the deponent; whereupon  
7 the deponent did not waive that right, and the  
8 taking of this deposition was concluded at 12:58  
9 p.m.)

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1 CERTIFICATE OF OATH

2 STATE OF FLORIDA

3 COUNTY OF HILLSBOROUGH

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5 I, Rhonda Hall-Breuwet, RMR, CRR, the  
6 undersigned authority, certify that MICHAEL PASKEN  
7 personally appeared before me on July 29, 2009, and  
8 was duly sworn.

9 Signed this 4th day of August, 2009.

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14 Rhonda Hall-Breuwet, RMR, CRR  
15 Notary Public, State of Florida  
Commission No.: DD 244257  
My Commission Expires: 9/28/2011

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CERTIFICATE OF COURT REPORTER

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

I, Rhonda Hall-Breuwet, RMR, CRR, do hereby certify that I was authorized to and did stenographically report the deposition of MICHAEL PASKEN; that a review of the transcript was requested; and that the foregoing transcript is a true and correct record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, or attorney, or counsel of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 4th day of August, 2009.

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Rhonda Hall-Breuwet, RMR, CRR

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

IN RE: DIGITEK®  
PRODUCT LIABILITY LITIGATION

MDL DOCKET NO. 1968

**THIS DOCUMENT APPLIES ONLY TO:**

Michael Pasken, et al.,

NO. 2:08-cv-1075

Plaintiff,

v.

Actavis Group hf, et al.,

Defendants.

**ERRATA SHEET TO DEPOSITION TRANSCRIPT OF MICHAEL PASKEN**

<u>Page:Line(s)</u>	<u>Correction</u>
throughout	My name is incorrectly spelled as "Paskin" at various points. The correct spelling is "Pasken."
42:1	The reference to switching insurance coverage in November 2008 should be November 2007. The reason for the correction is a typographical error.
118:12	The words "that's immaterial" should read "that's a very small amount." The reason for the correction is that, as I testified on the same page and earlier in the deposition, I was also out a number of pills.
119:9	The words "no" should be "no; unless the court allows it." The reason for the change is that when you asked me about seeking to recover the purchase

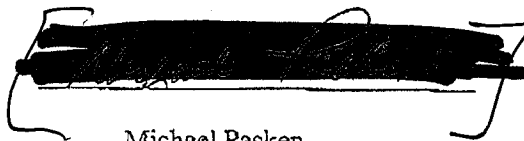
price of Digitek I thought you were referring to the Digitek pills that were replaced. I thought you were referring to the cost of the replacement of the pills and since the replacement was free, I was not including that replacement cost. I did not understand your question to mean the purchase price of all Digitek pills if that is what you meant. So, my answer is "no" if you are referring to the recalled Digitek pills that were replaced for free. If you are referring more generally to the cost of Digitek then it is "unless the court allows it."

various

There are various medical references and company names throughout the transcript. I have not checked the court reporter's spelling to determine if any of them need to be corrected.

There may be other spelling, grammatical, or other transcription errors in the transcript. It is possible that I may not have caught and corrected all of those, particularly with respect to comments or statements that were not mine.

I declare under penalty of perjury under the laws of the U.S. that the above corrections are true and correct to the best of my knowledge, information, and belief. Executed this 15th day of September, 2009.



Michael Pasken